

D.T.E. 98-51-B

Investigation by the Department of Telecommunications and Energy on its own motion as to the propriety of the rates and charges by Fitchburg Gas & Electric Light Company, set forth in Tariffs M.D.T.E. Nos. 52 through 58, filed with the Department on May 15, 1998, to become effective June 1, 1998, and suspended by the Department until December 1, 1998.

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FOR: FITCHBURG GAS & ELECTRIC LIGHT COMPANY

Petitioner

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ORDER ON ATTORNEY GENERAL'S OBJECTIONS TO THE COMPLIANCE  
FILING OF FITCHBURG GAS AND ELECTRIC LIGHT COMPANY

I. INTRODUCTION

On May 15, 1998, Fitchburg Gas and Electric Light Company ("Fitchburg" or "Company") filed for a general gas base rate increase with the Department of Telecommunications and Energy ("Department"). On October 16, 1998, the Company submitted its Cost of Gas Adjustment Clause ("CGAC") and Local Distribution Adjustment Clause ("LDAC") filings in conjunction with its projected base rates. The Department issued its final Order on the Company's proposed gas base rate increase on November 30, 1998, Fitchburg Gas and Electric Light Company, D.T.E. 98-51 (1998)



("Order"). Subsequently, the Company filed a Motion for Recalculation on December 3, 1998. On December 7, 1998, the Company filed its compliance filing which conformed to its Motion for Recalculation. As part of the compliance filing, the Company included a new filing for its CGAC and LDAC. On December 11, 1999, the Company withdrew certain portions of the previously filed Motion for Recalculation and, with the Attorney General, filed an Assented to Motion for Recalculation. These motions were resolved by the Department's Order issued on January 25, 1999, Fitchburg Gas and Electric Light Company, D.T.E. 98-51-A.

On February 18, 1999, the Department approved the Company's compliance filing on gas base rate issues. With respect to the Company's December 7, 1998, CGAC/LDAC filing, the Attorney General submitted comments on December 17, 1998, addressing the following issues: 1) the Company's inclusion of interest on inventory charges in the CGAC;<sup>(u)</sup> 2) the assignment of local production/liquified natural gas ("LP/LNG") costs based on load factor; and, 3) the inclusion of over \$700,000 in unbundling related costs in the LDAC. The Company filed reply comments on the same date. The Department stated that it would address these issues in a subsequent order. D.T.E. 98-51-A at 1, n.1.

## II. POSITIONS OF THE PARTIES

### A. Attorney General

#### 1. Separate Assignment of LP/LNG costs to Low/High Load CGAC Factors

The Attorney General notes that in the Company's initial rate case filing, as well as in any updates filed during the rate case proceeding, Fitchburg assigned all LP/LNG costs that Fitchburg proposed to transfer from base rates to the CGAC equally, on a per unit basis, by spreading the total costs over total volumes (Attorney General Comments at 4). The Attorney General does not agree with changes made by the Company in its December 7, 1998, compliance filing in which, for the first time, it allocated LP/LNG production related costs separately to high load factor and low load factor customer groups (*id.* at 5). The Attorney General asserts that no notice was given that changes in rate design were to be made to the CGAC (*id.*). The Attorney General contends that while Department precedent allows updates of non-controversial matters after the close of hearings, the changes made with respect to assignment of costs are not allowed (*id.* at 6, *citing Boston Gas Company*, D.P.U. 96-50-B at 7-9 (1997)). Furthermore, the Attorney General asserts that neither the Attorney General nor the Department had an opportunity to evaluate the resulting changes in rate design that occurred as a result of changes in cost allocation (*id.*). The Attorney General contends that the Department approved rates as proposed by the Company which did not include load factor based charges for LP/LNG expenses moving from base rates to the CGAC (*id.* at 5).

#### 2. LDAC Unbundling Expenses

The Attorney General disagrees with the Company's proposal to collect projected unbundling related costs through its LDAC (Attorney General Comments at 7). The



Attorney General contends that the Department has allowed companies to collect actual expenses incurred for participation in the Massachusetts Gas Unbundling Collaborative ("Collaborative") through the LDAC but has not included future or projected expenses associated with implementing unbundling as Fitchburg has proposed to do (id.). The Attorney General asserts that the costs for which the Company is asking recovery, i.e., costs relating to customer information systems, billing service costs, communication systems, etc., are base rate

items (id.). Moreover, the Attorney General argues that the information on gas unbundling expenses was filed for the first time in the Company's October 16, 1998, CGAC/LDAC filing, after the close of hearings (id.). The Attorney General objects to the collection of the proposed \$770,500 in unbundling costs as well as the corresponding tariff language (id. at 8).<sup>(2)</sup> The Attorney General asserts that fairness, procedural due process and Department precedent on

the admissibility of late-filed information dictates that the proposed unbundling costs and corresponding tariffs be disallowed (id.). Finally, the Attorney General contests that if the Department wishes to investigate this matter more thoroughly, the Company's CGAC/LDAC filing should be suspended for six months to allow for the development of a proper record through testimony, discovery and hearings (id. at 9).

## B. The Company

### 1. Separate Assignment of LP/LNG costs to Low/High Load CGAC

#### Factors

The Company maintains that rates filed as a part of the compliance filing were designed to comply with the Department's November 30, 1998, Order (Company Reply Comments at 4). The Company asserts that the Department's Order states "clearly the Department's preference [is] for rates to reflect cost causation such as a load factor based GAF...." (id.). Moreover, the Company contends that assigning LP/LNG costs by load factor is consistent with the method used to establish base rate revenue targets and avoids errors in the development of Fitchburg's class based revenue targets (id. at 5-6).

### 2. LDAC Unbundling Expenses

The Company asserts that it described its intent to include the unbundling costs in its filing for a general gas base rate increase on May 15, 1998. Furthermore, the Company states that it filed a LDAC on October 16, 1998, which included unbundling costs (Company Reply Comments at 7). The Company contends that the collection of estimated unbundling costs were fully explained in the October 16, 1998, filing and that the Attorney General had numerous opportunities to raise concerns about the Company's



LDAC (id. at 8). The Company argues that the Department did not raise any concerns with the LDAC in its November 30, 1998, Order and, therefore, the Company included the amount, originally filed in its October 16, 1998, CGAC/LDAC filing, in its December 7, 1998, compliance filing along with the supporting tariff language (id.). The Company states that it will be able to demonstrate the reasonableness of its estimates in a future proceeding and notes that all estimated costs are reconcilable to actual costs (id.). Fitchburg requests that the Department not open an investigation into an approved rate at this time (id.).

### III. ANALYSIS AND FINDINGS

#### A. Separate Assignment of LP/LNG costs to Low/High Load CGAC Factors

In the November 30, 1998 Order, the Department found that the majority of

Fitchburg's LP/LNG costs were gas-related costs and, therefore, were to be transferred to the CGAC to be recovered via the Gas Adjustment Factor ("GAF") (Order at 154). Further, the Department found that a load factor-based GAF more accurately represents cost incurrence and that the advantages of a load factor based CGAC outweighed any disadvantages resulting from a lack of consistency between gas companies (id.). The Company, in its compliance filing, allocated its LP/LNG costs based on load factors. This allocation is consistent with the Department's directives in the Order that Fitchburg's gas-related costs be recovered via a load factor based GAF and is, therefore, approved. The Department's review of the bill impacts, within the Company's rate case, D.T.E. 98-51, indicates that load factor based GAF's would not violate the Department's rate continuity goal.

#### B. LDAC Unbundling Expenses

The Department has approved the recovery of costs associated with a gas company's actual participation in the Collaborative. Berkshire Gas Company, D.T.E. 98-65 (1998); Colonial Gas Company, D.T.E. 98-64 (1998); Commonwealth Gas Company, D.T.E. 98-63 (1998), North Attleboro Gas Company, D.T.E. 98-61 (1998). In its May 15, 1998, filing, Fitchburg proposed to recover unbundling costs associated with the Company's participation in the Collaborative (Exh. FGE-KMA-1 at 5). In its October 16, 1998, CGAC/LDAC filing, which occurred after the close of hearings, the Company deviated from its initial proposal to recover only costs associated with its participation in the Collaborative. The Company proposed tariff language that would allow it to recover costs associated with implementing unbundling (December 7, 1998, Compliance Filing at M.D.T.E. No. 60, Sheet No. 10). In particular, the Company proposed to include costs associated with internal information

systems, consumer education, billing services and communications (October 16, 1998, LDAC Filing at Sch. IV, Worksheet III). The Company's request to recover all of these costs is inconsistent with what has been approved for other gas companies as well as what the



Company proposed in its May 15, 1998 filing. The Department's base rate proceeding was an investigation as to the propriety of rates and charges by Fitchburg that are to be recovered via base rates, and not the CGAC or the LDAC. The Company's LDAC and CGAC filings occurred after the close of hearings and were, therefore, not addressed in the Order. All costs included in the CGAC and LDAC are reviewed outside of a base rate proceeding for separate approval. Moreover, the Department agrees with the Attorney General that some of the cost items proposed to be recovered via the LDAC may be "base rate" related and would not be automatically approved for recovery via the LDAC. At this time, the Company may recover via the LDAC only those costs that the Company has incurred for its participation in the Collaborative. The Company may not recover the proposed additional \$770,500 in unbundling related costs. The Company may petition the Department for recovery of other unbundling costs in a separate proceeding.

#### IV. ORDER

After due consideration, it is

ORDERED: That Fitchburg Gas and Electric Light Company's proposed allocation of its LP/LNG costs based on load factors is approved; and it is

FURTHER ORDERED: That, absent approval in a subsequent proceeding, Fitchburg Gas and Electric Light Company may recover via the LDAC only those costs that the Company has incurred for its participation in the Gas Unbundling Collaborative; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company shall comply with all other orders and directives contained herein.

By Order of the Department,

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Janet Gail Besser, Chair



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James Connelly, Commissioner

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr., Commissioner



1. The Department will address the issue of interest on inventory charges in its order in D.T.E. 99-32.

2. Fitchburg proposes to collect all costs associated with unbundling including, but not limited to participation in the Collaborative (December 7, 1998, Compliance Filing at M.D.T.E. No. 60 Sheet No. 10). The tariff language approved for other LDC's in their respective unbundling filings allows only for the recovery of costs associated with a company's participation in the Collaborative but not for costs incurred to implement unbundling. Berkshire Gas Company, D.T.E. 98-65 (1998); Colonial Gas Company D.T.E. 98-64 (1998); Commonwealth Gas Company, D.T.E. 98-63 (1998); North Attleboro Gas Company, D.T.E. 98-66 (1998).